

TOWN OF KITTERY, MAINE  
BOARD OF APPEALS

APPROVED  
August 27, 2013

**Members present:** Vern Gardner, Craig Wilson, Brian Boyle, Brett Costa, Norm Leon

**Members absent:** None

**Staff:** Heather Ross, Code Enforcement Officer

The meeting was called to order at p.m.  
Pledge to the Flag

**Mr. Wilson** noted Title 16.1.5.2.F.4.a. authorizes the Board of Appeals to hear the following miscellaneous variation appeal.

**ITEM 1 – Jeffrey and Andree Pride – 29 Wyman Avenue, Map 16 Lot 150, R-URBAN**

Jeffrey and Andree Pride requesting a Miscellaneous Variation to the terms of Title 16 Section 3.2.4D in order to swap 181 square feet of land with adjacent non-conforming lot located at 27 Wyman Avenue, Map 16 Lot 149.

Jeffrey Pride indicated the submittal information presented to the Board has not changed. Jeffrey Mt. Joy, broker of record representing 27 Wyman Avenue, explained the owners of 27 Wyman Avenue found they could not receive a clear title as a long-existing structure appeared to straddle the property line with 29 Wyman Ave. In order to resolve the problem, the property owners of both 27 Wyman and 29 Wyman Ave. agreed to the property line adjustment as illustrated on the survey.

There was no further testimony, and the CEO provided:

1. The 29 Wyman Avenue property is a conforming lot with nonconforming structures.
2. The 27 Wyman Avenue property is a nonconforming lot with a nonconforming structure that straddles the property line.
3. Both property owners propose to swap 181 sf of land equally so the 27 Wyman Avenue structure is totally within the property line.

Board members concurred this proposal appears to solve the problem and have no issues.

Mr. Leon moved to grant a Miscellaneous Variation to Jeffrey and Andree Pride to the terms of Title 16 Section 3.2.4.D in order to swap 181 square feet of land with the adjacent non-conforming lot located at 27 Wyman Avenue, Map 16 Lot 149.

Mr. Boyle Seconded

Motion carried unanimously

Findings of Fact

1. The applicants, Jeffrey and Andree Pride, attended and noted their request has not changed.
2. Jeffrey Mt. Joy, Broker of Record, explained that 27 Wyman Avenue is currently for sale, and a discrepancy was found with the property line resulting in a lack of a clear title.
3. Owners of both properties have mutually agreed to swap 181 sf of land alongside the property line
4. 29 Wyman Avenue remains conforming, with the land swap and line adjustment, and the 27 Wyman Avenue property remains nonconforming, but no less nonconforming than what currently exists.

Mr. Costa moved to accept the Findings as read

Mr. Leon seconded

Motion carried unanimously

Conclusion

Title 16.7.3.1.A – Prohibitions and allowances provides that “a nonconforming condition must not be permitted to become more nonconforming”. With the land swap of 181 feet, this condition is met.

Mr. Leon moved to accept conclusion  
Mr. Costa seconded  
Motion carried unanimously

Minutes:

June 25, 2013

Miscellaneous changes were discussed, and the Board deferred approval to the September meeting.

August 13, 2013

Mr. Leon accepted as corrected  
Mr. Boyle seconded  
Motion carried unanimously

Mr. Wilson moved to adjourn  
Mr. Leon seconded  
Motion carried unanimously

The Board of Appeals meeting of August 27, 2013 adjourned at 7:30 p.m.